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C O N F I D E N T I A L SECTION 01 OF 02 PARIS 000619

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E.O. 12958: DECL: 02/01/2015

TAGS: [FAIR](#) [PTER](#) [FR](#)

SUBJECT: AVIATION SECURITY: DOES NO-FLY MEAN "NO FLY?"

REF: 1/21/05 AGUILAR-WHITE E-MAIL

Classified By: HOWARD LEACH, AMBASSADOR EMBASSY PARIS
FOR REASON 1.4B

1. (C) SUMMARY: Embassy Paris applauds Washington agencies' development of joint criteria for the inclusion of names on the Transportation Security Administration-managed No-Fly list (REF EMAIL). Rigorously applied criteria should greatly enhance the credibility of the list while ensuring it is an effective counterterrorism tool. Until joint criteria are finalized and communicated to all agencies and posts worldwide, we offer here an Embassy perspective on management of No-Fly boardings and, based on our experience, some additional thoughts for consideration to better target the fight against terrorism at home and abroad. END SUMMARY.

FRANCE-U.S. NO-FLY BOARDINGS

2. Since November 2004, Embassy Paris has managed five incidents of No-Fly boardings plus multiple false alarm notifications to post's legal attache. In four of the five boardings, U.S. authorities allowed the flights to land as scheduled and determined that none of the No-Fly listed passengers presented a threat to civil aviation. All were allowed to enter the U.S. Only one flight was diverted. In that case, the passenger initially identified as on the No-Fly list was in fact not the No-Fly listee but was refused entry into the U.S. because of a revoked visa. In a sixth No-Fly related case, a U.S. citizen was denied boarding in Paris because his name was on the No-Fly list. U.S. agencies subsequently rapidly determined that the passenger did not meet the criteria for inclusion on the No-Fly list and that his name should be removed.

3. (C) While we do not wish to diminish the responsibility of the airlines concerned in boarding No-Fly passengers contrary to applicable Emergency Amendments, the above incidents seem to indicate that the current parameters of the No-Fly list are quite broad and that the list includes people who do not threaten civil aviation. We consider it a very positive development that common criteria for including a name on the No-Fly list, which all contributing U.S. agencies would apply, are under consideration in Washington. As that discussion goes forward, and until agencies and posts are apprised of the joint criteria, Embassy Paris offers its perspective for consideration and welcomes other Embassies' views on this issue.

PERSPECTIVE

4. (C) The No-Fly list has grown to over 45,000 names and continues to grow. Although a new-format list with 35,310 names is available for airlines, at least one foreign carrier finds the list unwieldy and impractical and has told us that the 11 megabyte database, updated multiple times per day, heavily taxes their computer system. More importantly though, the list's inclusion criteria so far have not been restricted to identifying individuals who could pose a threat to a flight and prevent them from boarding. As such, No-Fly procedures increasingly appear to hamper legitimate travelers, while perhaps not facilitating our ability to discern who is a true threat to air travel.

5. (C) The French Government provides excellent cooperation to the U.S. on counterterrorism measures, however, it has recently privately called into question the purpose of the No-Fly list and our procedures in this regard. The GOF views flight diversions or flight delays for the purpose of further questioning a passenger who turns out not to be a threat as an indication that the No-Fly list serves more as an investigative tool to track individuals for law enforcement purposes rather than as an effective way to ensure secure air travel. The criteria question goes to the heart of the U.S. objective of preventing terrorism in the skies. In order to

maximize counterterrorism cooperation, our information and procedures should generate confidence in host governments and foreign carriers. Our goal should be a No-Fly list that is an efficient tool because it is manageable, accurate, and credible. As it now stands, relevant agencies at Embassy Paris indicate that their combined lists of terrorists would total a number far below the 45,000 names on the current No-Fly list. In our experience we have also noted that the amount of staff time here and in Washington devoted to individuals who should not be on the list, both during and after the incident is typically greater than time spent on a legitimate No-Fly case.

CONCLUSIONS

16. (C) We believe that it would be enormously helpful and serve our objective of secure air travel if the future joint criteria clearly identifies the category of names to be included and strictly restricts the list to such names. By its very name, the No-Fly list leads one to believe that anyone named on it should not be allowed to board an aircraft headed for U.S. airspace under any circumstances. If this is not what the list means, names not representing immediate threats to air transport should become "Selectees" as opposed to "No-Fly" listees with the lists modified accordingly. In addition, once the joint criteria for inclusion on the No-Fly list are established, it may be helpful for DHS (where the list manager is housed) to serve as the clearinghouse at the Washington level to ensure rigorous enforcement of the criteria. Such a unit could make sure each name that contributing agencies propose for entry into the No-Fly list passes the criteria test.

Leach